

[14th March 1922]

The motion was carried.

Clause 4 (1) as amended was put to the House, passed and added to the Bill.

Then the preamble was put and passed and added to the Bill.

The Hon'ble Mr. P. RAMARAYANINGAR :—"I now move that the Bill be passed into law."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I second it."

The question that the Bill to amend the Madras City Municipal Act, 1919, be passed into law was put and carried."

The Bill was passed into law.

IV

A BILL TO AMEND THE INDIAN STAMP ACT, 1899.

The Hon'ble the PRESIDENT :—"The House will now take up the consideration of the Bill to amend the Indian Stamp Act, 1899."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"Sir, I beg to present the report of the select committee on the Bill to amend the Indian Stamp Act, 1899, and to move that the Bill as reported by the committee be taken into consideration".

The Hon'ble Sir LIONEL DAVIDSON :—"I second the motion."

The motion that the Bill to amend the Indian Stamp Act, 1899, as amended by the select committee be taken into consideration was put and carried.

The Hon'ble the PRESIDENT :—"I will now put this Bill to the House clause by clause. The preamble will come at the end, and the Hon'ble the Revenue Member will move it then. We will now take up clause 1."

CLAUSE 1.

Amendment 2.

Mr. P. VENKATASUBBA RAO :—"I beg to move the following amendment:—

2. *In sub-clause (1) insert the word 'Temporary' before the word 'Amendment.'*

"Sir, in spite of the fate of a similar amendment proposed by me yesterday, I do not think I shall be wrong in persisting in my attitude towards this Bill also. I see no justification for a permanent increase in the stamp duties. As there is some prospect of substantial remission of our contributions to the Imperial Government, they will not be as heavy as at present. During the discussion on the Court Fees Bill, it was some consolation to learn that a portion of the revenue proposed to be raised will be utilized for increasing the pay of the village officers. May I submit that increasing the pay of the village officers like all other services is a charge on the ordinary revenues of this presidency? Why was it not proposed to increase the taxation to meet the increase in the salaries and allowances of the gazetted officers? When the question of increasing the pay of these poor village officers comes up, proposals for additional taxation also come in side by side.

14th March 1922]

[Mr. P. Venkatasubba Rao]

Clause 1—*cont.*

Further, if this measure is to be temporary we will be able to control the Government and if we feel satisfied that they have made serious attempts to retrench, we can extend the duration of the Act until such time as the province's financial position becomes strong. Therefore the Government should not permanently increase the stamp duty. So, I move that the word 'temporary' be inserted before 'Amendment'."

Mr. P. T. RAJAN :—" I second the motion."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" Sir, having had the benefit of a very long and exhaustive discussion over the Court Fees Bill which lasted for a day and a half, I am glad, Sir, that some of the questions which are common to both pieces of legislation were discussed at an early stage. It was also contended in the case of the other Bill that it should be only a temporary measure. That question was discussed *ad nauseum* and the Council came to the conclusion that considering the present financial position and considering also its future position as far as it is able to see, there was no ground whatsoever in rendering any of these two pieces of legislation merely temporary. I am not able to see whether the honourable mover of this motion is such a good prophet as to assure us that from and after the next official year we are going to have a big windfall in the shape of an appreciable reduction in our contribution to the Government of India. Nor do I subscribe myself to the theory that he seems to have started that these two pieces of taxation were intended more or less to have their proceeds earmarked for the purpose of increasing the salaries of the village officials. These measures are as a matter of fact intended for the purpose of adding to the revenues of the Province and it cannot at all be gainsaid that the revenues of the province do need a substantial increase, even after this and the other Bill are passed into law. It will be absolutely apparent to honourable members that they do not go a great way for the purpose of wiping out the deficit with which the province is confronted, probably for some time to come. Therefore, there is no prospect at the present moment of diving into the future, no guarantee whatsoever that our revenues will develop suddenly from the next official year. Nor am I in a position to take such a rosy view of things as the honourable mover has been able to do. I therefore appeal to the House to reject this motion following the action which it took in regard to the other Bill."

Mr. T. ARUMAINATHA PILLAI :—" Sir, I rise to support the amendment as I supported a similar amendment on the previous occasion. But there was one thing with regard to the other Bill. The Hon'ble the Law Member was able to convince the House that, if necessary, it was in his power to reduce the court fees and that under section 35 of the Court Fees Act Government had power to reduce the court fee if there was no necessity for any such charge to exist. Unfortunately for the Hon'ble the Revenue Member I do not think there is any section in the Stamp Act equivalent to that and once this Bill is put upon the permanent statute book, unless we are willing, unless the Government is willing to put up another Bill to reduce the stamps, it will not be possible to do anything by the executive act. I have got up only to add this additional reason why this Bill should be temporary and not a permanent Act on the statute book."

[14th March 1922]

Clause 1—*cont.*

Rao Bahadur C. V. S. NARASIMHA RAJU :—“ Mr. President, this Bill is merely a taxation Bill and the main objection raised for making it only temporary is that our finances are not likely to be very prosperous in the near future. I take objection to this statement. If we carefully go over the budget of this year, we see that there is a deficit of 75 lakhs under Exoise. The fall in the excise is a temporary one and as stated by the Government is mainly due to the activities of the non-co-operation party. We do not know what will be the activities of the non-co-operation party hereafter, having regard to the great repressive policy now adopted by the Government.

3-30 p.m. “ There is a great difference between the sales of toddy shops and the sales of arrack shops when we take into comparison the fall of revenue in the month of October with that in the months of February and March. Sir, when that is the case, we will not be justified in expecting that there may be any fall in the excise revenue, of course, if everything goes on as it is. Regarding excise revenue, it is an expanding revenue and we know that the average growth of revenue under this head is more than 20 or 24 lakhs a year. When that is the case, we do not know what will be the policy in the future with regard to the excise revenue. As far as we can judge from the statement made the other day by the Hon'ble the Minister who is now in charge of this department, he only wanted to continue the existing policy, viz., ‘ make the maximum revenue with minimum consumption ’. When there is not any change in the Ministership we will not be justified in expecting that there will be a fall in the revenue. The only disturbing element is the activities of the non-co-operation movement and we do not know what shape these activities will take and the House will not be justified in considering that there will be a fall in the revenue unless the Minister takes a different view. The Minister in charge of excise made us understand that he was not inaugurating any new policy. Of course the Hon'ble the Finance Member said that there was some difference in the views of some members of the House ; of course he has not much to do with the views of the members of this House although he has got much to do with the views of his own colleagues and of whose views he must be cognisant of by this time.

“ Our budget was presented with a deficit of 28 lakhs and it was said by the Hon'ble the Finance Member in his memorandum of the budget speech that this deficit was partly due to certain temporary elements that caused excess of expenditure, such as the disturbances by the Mapillas, and certain big adjustments regarding stationery and various other items. When this is the case the Government will not be justified in asking this House to imagine that financial prosperity of the province in the future will not be very rosy. After all, what my friends, the honourable members of this House say is : you do not make this a permanent Bill ; if you are under the same circumstances as you are now, if after the preparation of the budget for the next year you find that the finances of the country are not bright enough, you may come again with another Bill to be put into force. I have got strong arguments in favour of these Bills being kept temporarily. As far as dyarchical system of Government is concerned, this House has really no control over the expenditure for the reserved subjects. For my part, I think that from this aspect of

14th March 1922]

[Mr. C. V. S. Narasimha Raju]

Clause 1—*cont.*

the budget it is satisfactory, i.e., whenever Government want to make taxation proposals to make both ends meet they must come to this House as they have now made proposals for all taxation Bills. Regarding taxation Bills, I do not think that His Excellency the Governor has got the right to make any bills temporary. I do not think this House will be justified in giving up its own rights of judging from time to time the financial needs of the country and then in a way influencing the reserved branch of the administration. Yesterday we had our own experience when the honourable member from Chittoor urged that unless the Government is going to yield in the matter of expenditure, i.e., the pay of the village officers, there was every chance of the Bill being made a temporary one; and immediately the Hon'ble the Revenue Member got up and gave us an assurance. That is a very convenient arrangement, and I do not think the House will be justified in passing this Bill as a permanent one and allowing the Government to have their own way in the preparation of the budget. I support the amendment which proposes that the Bill should be a temporary one. If it is to be a temporary measure, there will be no objection whatever in having this Bill enacted into law."

MR. N. A. V. SOMASUNDARAM PILLAI :—" I beg to support this amendment. The present amendment in the Stamp Act works very great hardship upon persons who are concerned with that Act. Under this Act the duty is raised by about 50 per cent. If the finances of the country continue in the same state, the increased stamp duty will have to continue. But in the near future, say four or five years, we may be able to recoup our financial deficit. Therefore, there is no necessity at all to tax the people of this province permanently to such a high extent.

"So far as the Court Fees Act is concerned, there is provision 35 in that Act and as my honourable friend, Mr. Arumainatha Pillai, pointed out there is power vested in the Governor in Council to reduce the fees according to the first and second schedules of the Act. There is no provision at all embodied in the Stamp Act, and so if the Bill is made a permanent one there will be no hope of getting out of the enhanced duty that is now imposed under the present amended Act. For these reasons I would strongly support the amendment proposed."

RAO BAHADUR A. S. KRISHNA RAO PANTULU :—" Sir, I also rise to support this amendment. I wish to remind the House that we have to provide a distinction between the Court Fees Act and the Stamp Act. So far as the former is concerned, there are several who take the view that litigation is itself a luxury and that there is no serious injustice done in taxing the litigants to some extent. But so far as the Stamp Act is concerned, it affects the ordinary agriculturists and the ordinary trader and the people of ordinary means would find it very hard to pay the increased stamp duty provided under this Act. It may also be remembered that at the time of the discussion of the budget we were reminded of the various circumstances which led to the present deficit in the finances of the province. The causes which led to this deficit are to a large extent of a temporary character; and we all hope that those temporary causes would soon vanish and that we would be placed in a more substantial position in years to come. If the prophecy or wish of some honourable members of this Council that we might

[Mr. A. S. Krishna Rao Pantulu] [14th March 1922]

Clause 1—*cont.*

get a better state of things this year could not be realised, there is opportunity for the Government to come forward with a new temporary Bill or with a permanent Bill like the one now proposed. While considering this motion it is not necessary for us to consider as to how long or for what period this Bill is to remain in force, whether for one year or two years, or more. Whether the prophecy of the honourable mover who tabled the resolution is to be realised or not, it is open to every one of us here to consider whether a longer period is necessary for this Bill to be kept in operation.

"The only other point raised in this amendment is whether we are going to have it as a permanent piece of legislation or as a temporary one remaining in force for a certain number of years only. So far as this point is concerned, there ought to be no difference of opinion, because this Bill affects the ordinary trader and agriculturist, including the poorest among them."

Mr. K. V. RAMACHARI:—"I rise to support the amendment. It is admitted on all hands that India is already groaning under a very heavy taxation, and it is also admitted to be one of the causes of the discontent prevailing in the country. At the commencement of this financial year the Government of India raised taxation to the extent of about 18 crores of rupees (I may not be very correct on the statement of the figure, and am of course subject to correction); and there are proposals in the Indian Legislature for further taxing the people to the extent of about 30 crores of rupees. They are proposing to tax even the necessities of life which will hit very hard upon the poor people. There are also proposals to enhance the Excise duty on cotton and the Import duty on machinery. It will certainly have a very baneful effect upon the industrial development of this country. So within a period of 12 or 13 months after the Reform Act came into operation, the taxes on the people of India have been enhanced to the extent of about 50 crores of rupees. In spite of all this, if this House desires to impose further taxation, I can only be sorry. If we are to satisfy our constituents whom we represent here, we ought not to give our assent to any fresh taxation. It is my strong desire that this Council should relegate any idea of further taxation to the limbo of oblivion at least for some time to come. Now let us look at the state of affairs prevailing just before the time of the Legislative Council elections when the non-co-operation movement had assumed a serious turn. It was then advising the people in general not to go to the poll for the purpose of electing candidates to the Legislative Council. At that time those who stood as candidates and the people who were co-operators with the Government had a great difficulty in persuading people to go to the poll by telling them that the Reform Act was not a curse as the non-co-operators represented it to be, but it was a blessing upon the people of India. Now, within a period of 14 months taxation has been raised to the extent of 50 crores of rupees, and we are trying to burden the people with further taxation. Are we now to go and say to the people that these are the symbols of the blessings of the operation of the Reform Act? I don't believe that anybody will say so. Therefore, it is certainly highly desirable in the name of fairness and justice, and in the name of good Government, that any further taxation ought not to be imposed upon the people. Moreover, I do not believe that there is any necessity for further taxing the people. As has been already represented, this year's deficit is the outcome of

14th March 1922]

[Mr. K. V. Ramachari]

Clause 1—*cont.*

a temporary fall in the Excise revenue, and in my speech of yesterday I said that the Non-co-operation movement is destined to die a natural death, and that all necessary measures are being taken by the Government to put down this movement with a high hand. Therefore, I do not believe that this fall in revenue will continue for ever. Therefore there is no necessity for any additional taxation to cover up a temporary deficit."

3-45 p.m. " Besides this there is another matter which we have to consider. The members of this House have repeatedly stated on so many occasions that there ought to be drastic retrenchments, and therefore at the end of this year we will find that large retrenchments are made as suggested, and large savings are effected. There is also another fact to be taken into consideration, namely, our contribution to the Government of India. I learn that this question was taken up in the Council of State and a resolution passed recommending that the contribution should be reduced; and I also heard that this question has also been moved in Parliament. So, Sir, from whatever sources we gather information, all go to strengthen the fact that the Government of India is likely to reduce this contribution to a large extent, if they do not remove the whole contribution. So, with the additional revenue from next year and the savings made by retrenchments effected this year, and with the expectation of a large reduction of our contribution to the Central Government, we have every cause for hope that there would be good prospects from next year. It has also been stated by some honourable members that there is no money for the industrial development of this province. So far as I see, nothing has been done till now in the way of the industrial progress of this province. Even if there is to be no money for industrial development, we can afford to wait a few years more as we have done in the past. But I believe that with the large savings and with a reduction in our contribution to the Imperial Government, large sums could be utilised for the industrial development."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I should like to make a few observations in regard to the question whether this Bill to amend the Stamp Act should be made permanent or whether it should be a temporary measure. In the first place, honourable members would notice that there are a number of amendments that this Act (after being passed) should be in force either up to the 31st March 1923 or 31st March 1924. The present amendment wishes to carry out the same idea by the insertion of the word 'temporary' before the word 'amendment' in clause 1. So far as this amendment is concerned, if this is accepted, it would be necessary for one of the other amendments fixing the time up to which this Act should be in operation to be accepted. But the general question as to whether this should be a temporary measure or a permanent measure has been raised. Sir, I think I should bring it to the notice of honourable members that these two Bills, those relating to the Court Fees and Stamps, are expected to yield an additional income of about 70 lakhs of rupees according to the statement of the Hon'ble the Finance Member, and it is also stated that the present deficit has arisen on account of special causes which, it is more than likely, will disappear during the next year. Assuming for the sake of argument that they would not disappear, the Hon'ble the Revenue Member has certainly the opportunity to come back to this House and ask again for the

[Mr. M. Ramachandra Rao Pantulu]

[14th March 1922]

Clause 1—*cont.*

continuance of this measure. I do not therefore see what difficulty there is in making this measure a temporary one as suggested in this amendment. What is the effect of making this permanent? The Hon'ble the Finance Member and the Hon'ble the Revenue Member are placed in possession of 70 lakhs of rupees for all time to come unless this Act is modified at their instance, for nobody else has got the right to do so. The result is that the Government can budget for expenditure at their pleasure. No honourable member in this House who is not connected with the Government has any right to initiate proposals for expenditure. Therefore it is that the English practice of keeping these measures current only for one year is a sound one. I would invite the attention of honourable members to Volume III of 'The Procedure of the House of Commons' by Redlich (page 126) relating to financial proposals, which says:

'Duties and taxes are imposed by Statute, and when a tax or duty has been imposed, it remains in force, in the absence of further statutory provision, for such period as may be prescribed by the Statute imposed by it. As regards the majority of taxes and duties the prescribed period is "until Parliament otherwise determine".'

"These are the most important words. It goes on:

'But with a view to maintaining Parliamentary control over taxation from year to year, a constitutional practice has been established whereby at least one important customs duty and one important direct tax are made subject to annual renewal. Accordingly whether the financial arrangements of any given year require the imposition of additional taxation or not, an Act must be passed every year to continue the expiring imposts; and when the Finance Bill, in which such renewal is proposed, is before the House, it is competent for any member to raise the question not only of the renewal of the particular imposts in question, but of the continuance of any other duty or tax, whatever may be the statutory time-limit, if any, prescribed for it.'

'For many years the tea duty and the income-tax have for this purpose been imposed year by year for one year only; but the reason for their annual renewal being purely constitutional, they, in practice, form no less than the duties and the taxes imposed "until Parliament otherwise determine," a part of the permanent taxation of the country. On the other hand, the income-tax, of direct taxes, and the tea duty, of the indirect taxes, are those which lend themselves most readily to variation of rate from year to year; it is convenient therefore that the sources of revenue to which the Chancellor of the Exchequer as a rule first looks, when he has to consider the adjustment of revenue to expenditure, should be those which must of necessity come under review.'

"I think honourable members would notice that the great advantage of making this Act a temporary one current for the next year or the year after that, is the opportunity that we would have of reviewing the whole situation and passing the financial expenditure of the Government under review, and refusing, if necessary, the renewal of this tax if, in the opinion of this Council, the expenditure which is to be proposed next year and the year after next does not meet with the wishes of this Council. Is the House going to forego that right, or is it going to make this taxation measure a permanent one, thus altogether declining your powers of scrutiny of the financial expenditure of the Government? On this broad ground I suggest that this measure should be made temporary for one year or for two years as suggested in many of the succeeding amendments. And if the Hon'ble the Revenue Member finds himself in exactly the same position as this year, certainly he can come forward before this Council and ask that this measure should be continued for some time to come. I therefore think, Sir, that every advantage is on the side of making this measure a temporary one as suggested in this amendment. I do not see why because there is a deficit of 100 lakhs or 105 lakhs

14th March 1922] [Mr. M. Ramachandra Rao Pantulu]

Clause 1—*cont.*

of rupees this year, we should place at the disposal of the Government permanent resources which they might spend as they like, as no private member of this House has got the right to initiate proposals for expenditure? (A voice: 'You have'). We have only the right of vetoing, but the power of spending this money is in the hands of the Government. On these grounds I object to this measure being made permanent and I do not see why the Government is inconvenienced by making it current for only one or two years."

Rao Sahib S. ELLAPPA CHETTIYAR:—"Mr. President, Sir, I rise to support the motion, and in doing so, I want to say only very few words. The reason given by the Government for presenting this Bill is to make up the deficit in the budget for the year 1922-23. Such being the case, I do not understand why this Bill should be made permanent. If in the next year there is any such deficit, then this may be extended for one or more years. So I think that this measure may be made temporary."

The Hon'ble Sir CHARLES TODHUNTER:—"Sir, I wish I could share the irrepressible optimism of honourable Members who have spoken on this amendment. They seem to think that there is no danger whatever of our deficit continuing, that our excise revenue is going to come back, that we are going to get the whole of our contribution of 348 lakhs of rupees to the Government of India waived, that we are going to retrench enormous sums of money, and that we shall have so much money that we shall not know what to do with it. Now, Sir, I am sorry to repeat what I have already said, i.e., that the hope of the excise revenue returning cannot be realised if the other hopes of the House are to be realised. If there is to be a large reduction in the consumption of liquor—and this House wants to reduce the consumption of liquor—I do not see how we can with any consistency count on a large increase in the excise revenue. As for the contribution to the Government of India, I am afraid that the honourable member who referred to that point has not read my Budget speech nor has he read the resolution passed in the Council of State. That resolution was nothing but a repetition of the words of the Devolution Rules. As for the Central Government being able to remit our contribution, I ask any honourable member who has read the Budget of the Government of India if he can honestly say that he anticipates that they are going to reduce the contribution of Rs. 348 lakhs payable by this province in the near future. As for retrenchment, I have already referred more than once to the statements which have been made here by members of the Finance Committee that we have made all the retrenchments which can be made without making radical changes of policy. It is possible that we may be able to effect greater retrenchments by making radical changes in policy, but this would take a lot of time and scrutiny and would very likely involve a modification of the law. So we cannot count on any early saving under that head. Again, I have stated to the House that we have got to reduce our debt, and if we are going to pay back this dead-weight debt, it will take something like 20 years to do it. Therefore, we want this money for those 20 years at any rate in order to pay back this dead-weight debt. So, Sir, I venture to think that the hope that we are going to be able to do without it either next year or the year after next is a vain hope. I only wish I could share the optimism of the honourable gentlemen who have given expression to it, but I am afraid it is quite without foundation."

[14th March 1922]

Clause 1—*cont.*

Mr. B. P. DEVARAJULU NAYUDU :—“ Mr. President, Sir, I was one of those who voted against a similar amendment of the Bill to amend the Court Fees Act in this Council. Now, Sir, I rise to support this amendment. That itself may appear to be somewhat inconsistent, but, taking the whole situation into consideration, it looks as if there are many reasons, as stated by many of my honourable friends, for supporting this amendment. Some of my honourable friends also who opposed the former amendment are now coming forward to support this amendment. The reasons are these. I would start by saying that we need not even hope for better days nor need we hope even for a release of a portion of our contribution. We may not have much hope of getting more by effecting retrenchments. In spite of all this, there is nothing which is very objectionable in making this measure a temporary one. This Bill was started in the first instance for the purpose of covering up a deficit, and now it is attempted to be made a source of revenue for the development of general resources.

“ Well, Sir, if this Bill had come at a time when we were overflowing with money in every direction, surely we could give our support to this Bill which is intended to add to our general resources. But what is our condition now? We have so many imperial taxes and it is likely that the imposition of further taxes would have a serious effect upon us who are already paying any amount of taxation. I ask, Sir, whether it is not reasonable under existing circumstances to make this only a temporary measure, especially in view of the fact that the Government introduced it not with a view to make it an increasing source of general revenues but only for covering a deficit. Probably, if it was otherwise, the House would not have voted on the previous Bill—”

4 p.m.

The Hon'ble Sir CHARLES TODHUNTER :—“ May I say, Sir, it was to increase the general resources or rather to replace money taken out of the general resources ? ”

Mr. B. P. DEVARAJULU NAYUDU :—“ The honourable member said that it was to cover the deficit caused by the fall in the excise revenue. There is no use imagining things that do not exist. From what we have been hearing from honourable members, we understood that the temporary fall was due to the mischievous factors that have been at work and that it was not due to any general movement on the part of the people. We can very well see that this state of affairs cannot be overcome soon and there is no use saying that there is hope of this revenue increasing in a short time.

“ Then, Sir, there is the question of retrenchment. It is said that retrenchment has been carried to the maximum extent with due regard to efficiency— ”

The Hon'ble Sir CHARLES TODHUNTER :—“ May I ask the honourable member to quote me correctly? I said that this cannot be carried out without a radical change of policy.”

Mr. B. P. DEVARAJULU NAYUDU :—“ Without such a change of policy, if it is possible to give relief, where is the necessity for keeping it off and why not you begin it from time to time? If not this year, we can commence it at least next year. I do not think that, if measures of this sort are made permanent radical changes would be made; they would only be deferred and there will be no hope of realising it. So long as

14th March 1922]

[Mr. B. P. Devarajulu Nayudu]

Clause 1--*cont*

the Government will not save by reason of the fact that the deficit is going to be temporary, I think it stands to reason in all points that this measure should be a temporary one and not a permanent one. If, after one or two years, the future is not so rosy as some of us think, then there will be time enough to consider the question once again and then we shall be in a position to have more experience in the matter and then, if it is necessary, we can extend it. At any rate, there is no necessity to make this a permanent Bill."

Mr. O. TANIKACHALA CHETTIYAR:—"Sir, I rise to oppose this amendment for this reason. The Council gave permission for the introduction of two Bills—to amend the Court Fees and the Stamp Act. There has been a similar discussion with reference to the question as to how long this Bill shall be in force. After a great deal of deliberation we came to the conclusion that there shall be no limitation. I cannot therefore appreciate the idea that this is only a temporary measure. In spite of the financial stringency we have given a mandate to the Government that they shall undertake a liability for increase of pay of village officers. And when they once begin to give the increase, they cannot make it temporary for a year or two, and, for all practical purposes if not for legal purposes, the obligation will have to run for all time to come. Therefore, it is but right that Government should be provided with the sinews of war or the funds to which they can look to the payment of these charges on the services. I am aware that we have made proposals for retrenchment which, as has been pointed out, cannot be given effect to. But even when it can be given effect to after going through the necessary formalities of obtaining the sanction of the Secretary of State, unfortunately there is such a thing as the time-scale which makes this burden automatically increase year by year. However much there may be reduction, still there will be increase year after year. Therefore, I do not think that it is possible with the current revenue to meet this extra charge unless something is ear-marked for this particular purpose. My friend Mr. Ramachandra Rao referred to practices in England and quoted some instances. I believe such things as the yearly taxation or the renewal of the rates may be with reference to such taxes as income-tax or customs duty. But I do not believe that he will be able to cite an instance where such a thing as stamp duty which goes to determine a title or the validity of a title will be subject to fluctuation or vicissitudes from time to time (hear, hear). The great danger in changing or putting these things on an uncertain basis is that the titles to property after the lapse of a long standing would be open to question. It will be very difficult to say whether a particular document by which a title has been acquired was rightly stamped or insufficiently stamped at the time of its execution. And the questions of penalty and validation are really difficult matters. If my friend can quote such an instance, I shall only be very glad —"

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I may inform my honourable friend that the Stamp Acts have been in force in this country since the year 1860 and the rates have been varying from time to time in regard to instruments conferring titles, and there has been no difficulty felt."

Mr. O. TANIKACHALA CHETTIYAR:—"May I inquire if at any time a rate previously in force was reduced?"

[14th March 1922]

Clause 1—*cont.*

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I am afraid I cannot undertake to deliver a dissertation upon the history of the Stamp Act in this country. But all that I can say, Sir, is that if you are going to have a system of taxation there must be a method of varying it in order to suit the actual deficit. If my honourable friend contends that this is an unsound proposition, I have nothing to say. It may be that in this instance we are dealing with court-fees and stamps. If, for example, the deficit is wiped off next year, Mr. Tanikachala Chettiyar may still retain it for the sake of continuity."

Mr. O. TANIKACHALA CHETTIYAR :—"I do not propose to answer hypothetical questions. My friend was not able to give me an instance where there have been fluctuations that go forward and recede. Therefore, I do not believe that this principle, which he quoted from parliamentary practice is a thing on which we can safely rely for guidance. Some hope has been expressed that there will be a reduction in the contribution due to the Central Government. I am not so optimistic. But I am sure there will be a re-adjustment, and the proportion of our liability to other Provinces may be altered. But I see also some indications that this re-adjustment or throwing into the melting pot Lord Meston's award, is made with some ulterior object of making all the provinces liable for more than the present amounts and in that way increasing the deficit rather than taking away the burden from us. So, I am not very hopeful of that course, Sir."

"Another thing, I would say, is that in various provinces, where such amendments have been undertaken, there has been no such limitation as to time as we are here trying to impose. Moreover these Acts are Government of India Acts; and, but for the fact that the revenues have now become provincial sources of revenue, it may have been undertaken by the Government of India itself, and, if they had an opportunity of revising it for the purpose of revenue, they would not have made it to be in force for different periods for different provinces. Having regard to the fact that in no other province this limitation was attempted, I think, we ought also to follow that example and not to try to limit it to one or two years, thereby jeopardising the chances of increase which has been promised by the Government in the pay of village officers. In these circumstances, I would appeal to the House not to give a different treatment to this Bill."

The Hon'ble Mr. P. RAMAAYANINGAR :—"I move that the question be now put."

The motion for closure was put to the House and declared carried.

The amendment was then put to the House and a poll was taken with the following result :—

Ayes.

- | | |
|--|---|
| 1. Mr. B. P. Devarajulu Nayudu. | 12. Mr. N. A. V. Somasundaram Pillai. |
| 2. Rao Sahib S. Ellappa Chettiyar. | 13. Mr. P. Subbarayan. |
| 3. Rao Bahadur K. Gopalakrishnayya. | 14. Mr. T. C. Tangavelu Pillai. |
| 4. Mr. C. Ramalinga Reddi. | 15. Mr. V. C. Vellingiri Goundar. |
| 5. Mr. K. A. Kandaswami Kandar. | 16. K. C. Venkatachala Reddiyar. |
| 6. Mr. J. Kuppuswami. | 17. Mr. P. Venkatasubba Rao. |
| 7. Mr. A. T. Muttukumaraswami Chettiyar. | 18. Diwan Bahadur M. Ramachandra Rao Pantulu. |
| 8. Mr. V. Pakkiriswami Pillai. | 19. Diwan Bahadur L. A. Govindaraghava Ayyar. |
| 9. Mr. P. T. Rajan. | 20. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 10. Rao Bahadur A. Ramayya Punja. | |
| 11. Mr. T. Somasundara Mudaliyar. | |

14th March 1922]

Clause 1—cont.

Ayes—cont.

21. Mr. C. V. Venkataramana Ayyangar.
22. Rai Bahadur T. M. Narasimhaachari.
23. Rao Bahadur C. V. S. Narasimha Raju.
24. Mr. K. V. Ramaohari.
25. Rao Sahib U. Rama Rao.

26. Mr. A. Ranganatha Mudaliyar.
27. Mr. M. Suryanarayana Pantulu.
28. Mr. T. Arumainatha Pillai.
29. Mr. Abbas Ali Khan Bahadur.
30. Mr. Ahmad Miran Sahib Bahadur.

Noes.

1. The Hon'ble Sir Lionel Davidson.
2. „ Sir Charles Todhunter.
3. „ Khan Bahadur Muhammad Habib-ul-lah Sahib.
4. „ Mr. K. Srinivasa Ayyangar.
5. „ Mr. P. Ramarayanalingar.
6. „ Rai Bahadur K. Venkata Reddi Nayudu.
7. „ Rao Bahadur A. P. Patro.
8. Mr. C. P. Ramaswami Ayyar.
9. Mr. T. E. Moir.
10. Mr. N. E. Marjoribanks.
11. Mr. F. J. Richards.
12. Mr. C. W. E. Cotton.
13. Mr. R. Littlehailes.
14. Mr. E. Periyannayakam.
15. Mr. R. K. Shunmukham Chettiyar.
16. Mr. A. Ramaswami Mudaliyar.
17. Mr. R. Appaswami Nayudu.

18. Diwan Bahadur Sir P. Tyagaraya Chettiyar.
19. Mr. O. Tanikachala Chettiyar.
20. Mr. W. Vijayaraghava Mudaliyar.
21. Mr. B. Muniswami Nayudu.
22. Mr. C. Natesa Mudaliyar.
23. Mr. W. P. A. Saundara Pandia Nadar.
24. Mr. S. Somasundaram Pillai.
25. Diwan Bahadur R. Venkataratnam Nayudu.
26. Diwan Bahadur M. Krishnan Nayar.
27. Rao Sahib E. C. M. Mascarenhas.
28. Khan Sahib Abdur Rahim Khan Sahib Bahadur.
29. Mr. L. C. Guruswami.
30. Mr. R. T. Kesavalu Pillai.
31. Rao Sahib P. Venkatarangayya.
32. Sir J. F. Simpson.
33. Mr. A. M. MacDougall.

The amendment was lost, 30 voting *for* and 33 *against* it.

Amendment 3.

4-15 p.m. The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I beg to move—

3. *In sub-clause (2) for the words 'Fort St. George,' substitute the word 'Madras'.*

"This and a few other amendments which appear on the agenda in my name are more or less of a formal nature intended and designed to bring this Bill also into line with the phraseology which has been employed in the Court Fees Bill, which the Council was considering and which had the benefit of being revised by my honourable colleague the Law Member. I have therefore taken shelter under the phraseology employed by him and have tried to make the phraseology of this Bill as elegant as in the other one. As I said, this is more or less of a formal nature."

The Hon'ble Mr. K. SRINIVASA AYYANGAR:—"I second it."

The amendment was put and carried.

Amendments 4 to 7.

The following amendments were not then moved and were therefore deemed to have been withdrawn:—

Mr. P. VENKATASUBBA RAO:—

4. *Omit the full stop at the end of sub-clause (2) and add the following:—"and shall remain in force till 31st March 1923."*

Mr. B. MUNISWAMI NAYUDU:—

5. *Add the following as sub-clause (3):—*

"This Act shall come into force on the 1st day of April 1923."

Mr. T. ARUMAINATHA PILLAI:—

6. *Add the following as sub-clause (3):—*

"This Act shall remain in force till 31st March 1923,"

[14th March 1922]

Clause 1—cont.

Mr. P. SIVA RAO :—

7. *Add the following as sub-clause (3) :—**"This Act shall be in force till the 31st of March 1924."*

Clause 1, as amended, was then put, passed and added to the Bill.

CLAUSe 2.

Amendment 8.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I beg to move—

8. *For the existing clause substitute the following :—**In this Act the words 'the Principal Act' shall mean the Indian Stamp Act, 1899.**"The reasons are the same as those I explained already."*

The Hon'ble Mr. K. SRINIVASA AYYANGAR :—"I second it."

The motion was put and carried.

Clause 2, as amended, was then put, passed and added to the Bill.

CLAUSe 3.

Amendment 9.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I beg to move—

9. *For the words 'the said Act' substitute the words Principal Act.'*

Mr. C. P. RAMASWAMI AYYAR :—"I second it."

The motion was put and carried.

Clause 3, as amended, was then put, passed and added to the Bill.

CLAUSe 4.

Amendment 10.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I beg to move the following amendment :—

10. (i) *For the words 'the said Act' substitute the words 'the Principal Act.'*(ii) *In the fifth line of the proviso omit the words 'to this Act.'*(iii) *In the seventh and eighth lines of the proviso omit the words 'under this Act' after the word 'chargeable'.*(iv) *In the ninth, tenth and eleventh lines of the proviso omit the words mentioned in clauses (aa) and (bb) of this proviso as the proper duty therefor respectively.'*(v) *In (aa) and (bb) for the words 'Fort St. George' substitute the word 'Madras'."*

Mr. C. P. RAMASWAMI AYYAR :—"I second it."

The motion was put and carried.

Clause 4, as amended, was then put, passed and added to the Bill.

CLAUSe 5.

Amendment 11.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"I beg to move—

11. *For the words 'the said Act' substitute the words 'the Principal Act'."*

Mr. C. P. RAMASWAMI AYYAR :—"I second it."

The motion was put and carried.

Clause 5, as amended, was then put, passed and added to the Bill.

14th March 1922]

CLAUSE 6.

Amendment 12.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I beg to move—

12. *For the words 'the said Act' substitute the words 'the Principal Act'.*"

Mr. C. P. RAMASWAMI AYYAR :—" I second it."

The motion was put and carried.

Clause 6 as amended was then put, passed and added to the Bill.

CLAUSE 7.

Amendment 13.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I beg to move—

13. *In the fifth line of the clause for the words "Fort St. George" substitute the word "Madras".*"

Mr. C. P. RAMASWAMI AYYAR :—" I second it."

The motion was put and carried.

Clause 7 as amended was then put, passed and added to the Bill.

CLAUSES 8 to 12.

Clauses 8 to 12 were then put, passed and added to the Bill.

A NEW CLAUSE AFTER CLAUSE 12.

Amendment 14.

Mr. T. ARUMAINATHA PILLAI :—" I beg to move the amendment—

14. *After clause 12 add the following new clause as clause 13 and re-number the present clause 13 as clause 14 :—*

'Notwithstanding anything contained in this Act, Articles 23, 33 and 40 (a) of Schedule I of the Indian Stamp Act, 1889, shall be applicable to the instruments covered by the said article in respect of properties within the city of Madras as defined by the Madras City Municipal Act IV of 1919.'

"The reason why I want this new clause to be added is this. The articles which I referred to in my proposed amendment refer to the following instruments :—Article 23 refers to sales, Article 33 refers to gifts and Article 40 (a) refers to mortgage with possession. Section 135 of the Madras City Municipal Act runs thus : 'The duty on transfers of property shall be levied in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1889, on instruments of sale, gift and mortgage with possession of immovable property situated within the limits of the city which may be executed after the commencement of the Act at a rate not exceeding 2 per centum on, as the case may be, the amount of the consideration, the value of the property or the amount secured by the mortgage, as set forth in the instrument.' Since the Municipal Act was passed, the Government of Madras has issued a notification that the class of instruments mentioned in this section of the City Municipal Act would be liable to have a surcharge of 1 per cent levied on them. Now, Sir, up to this time, the case has been like this. When this 1 per cent was not due to the Madras Municipality the persons who execute instruments of this sort will have to pay at the rate of Rs. 10 per thousand rupees. That comes to 1 per cent. Now, after the City Municipal Act has come into force, the persons within the city actually pay 2 per cent though the Government does not get the full 2 per cent. Though it gets

[Mr. T. Arumainatha Pillai]

[14th March 1922]

A new clause after clause 12—*cont.*

only 1 per cent, the other 1 per cent goes to the municipality. The difficulty is this: that after the Municipal Act was passed, the residents of Madras City have to pay 2 per cent upon those deeds, while persons in the mufassal have been paying 1 per cent. Now, if you are going to increase the 1 per cent duty which will go to the Government to $1\frac{1}{2}$ per cent as proposed under the Stamp Act, and if you add to it the duty liable under section 135 of the City Municipal Act, then the persons will have to pay $2\frac{1}{2}$ per cent stamp duty on the value of these instruments. In order that the residents of Madras may not be very much damaged, I would submit, Sir, that the old rate be retained only so far as these three instruments are concerned upon which the properties within the city of Madras will have to bear this surcharge. I do not believe there is much to be said about these things, and the Government would not be anxious to impose a heavy burden upon these people. Therefore, I move this amendment, Sir."

MR. O. TANIKACHALA CHETTIYAR:—"I second the motion made by my friend Mr. Arumainatha Pillai, though I have a little difference as to the reading of this section 135 of the City Municipal Act. As I understand it, the duty in respect of these three classes of instruments covering properties situated in the city of Madras, namely, instruments of sale, gift and mortgage with possession, shall, notwithstanding the provisions of the Act now before the House, be subject according to section 135 of the Municipal Act to a duty not exceeding 2 per cent, so that if the duty which the corporation is authorized to collect is 2 per cent or anything less, that amount will pass over to Government. It will be seen from section 137 what the duty is that is in force in British India or in the Madras Presidency. Section 137 says: 'The Governor in Council may make rules not inconsistent with this Act for regulating the collection of the duty, the payment thereof to the corporation and the deduction of any expenses incurred by the Government in the collection thereof.' This duty of 2 per cent is being collected by the Madras Corporation and there being no exemption in favour of the corporation or in modification of this section 135, the Government will collect this $1\frac{1}{2}$ per cent which is provided for by this new Act and the corporation will be put to the loss created by this amendment, so that by a stroke of the pen the corporation, without any specific notice, will be robbed of Rs. 75,000. I believe the surcharge out of this tax which they collect under this section amounts to as much as Rs. 1.30 lakhs to Rs. 1.50 lakhs. Therefore, if this half per cent which is now the amount by which this tax is raised in this Presidency, is deducted from the surcharge which the corporation has been allowed to raise under section 135, this will be a loss inflicted on the corporation. It could not have been intended that the corporation should suffer any loss of revenue in this manner or that Government should help itself in this way. Nor could it have been intended by the framers of the Act that the properties in the city should be subject to more than 2 per cent, whereas all the properties situated in the mufassal are only subject to 1 per cent. If you intend to raise the tax by half per cent, it is not intended thereby to raise the burden upon the owners of properties in Madras. Therefore, I support this amendment."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, except it be that there is anything like a desire
4-30 p.m. on the part of the honourable mover and seconder of the

14th March 1922] [Mr. Muhammad Habib-ul-lah Sahib]

A new clause after clause 12—*cont.*

amendment to claim a differential treatment on behalf of the citizens of Madras in respect of the fees in Schedule 1-A, I can hardly follow the line of argument that has been adduced so far. If I understand the position aright, the only right which the Madras Corporation possesses at the present moment under section 135 of the City Municipal Act is to claim a surcharge towards its own revenue represented by a certain percentage on the stamp duty levied in respect of the documents executed within the city of Madras. To that extent, its right has in no way been abrogated by the provisions of the Bill that we are now considering. What the Madras Corporation has until now been doing, it will continue to do under the future and altered state of affairs. For, nowhere in the clauses which precede this schedule, nor in the schedule itself relating to the three particular items that have been specifically mentioned has any attempt been made for the purpose of abrogating or doing away with the privilege which the Madras Corporation enjoys under section 135 of the City Municipal Act. If until now the Madras citizen has been paying a particular fee for any document which he executed, in future he, in common with his brethren in the mufassal, will have to pay an additional fee and the Madras Corporation in exercise of the right which they obviously possess under section 135 and which, let me repeat, has not been abrogated or attempted to be abrogated, will continue to get their own share of the proceeds from this taxation. I can hardly therefore see, Sir, what fear is lurking in the minds of the honourable member Mr. O. Tanikachala Chettiyar, why he is alarmed at the idea that the resources of the corporation are going to be in any way crippled on account of the revision of the schedule or how the honourable mover is going to justify his position that what is sauce for the goose need not be sauce for the gander. For, if the mufassal people are going to be called upon to pay a higher rate of fee in future on account of the transactions which they will enter into, I can hardly see any justification why the citizens of Madras should go scot free. I think justice, equity and all considerations alike demand that there should be no sort of difference of treatment between individuals and individuals and much less between the happy citizens of Madras and those living in the mufassal. I am therefore unable, Sir, to see the exact force of the arguments that have been advanced by the two honourable members who have spoken on the amendment and I fail to see that the present schedule will in any way affect the revenue prospects of the Madras Corporation."

MR. O. TANIKACHALA CHETTIYAR:—"I wish to rise to offer a personal explanation, Sir. I contend that the City Municipal Act, section 135, imposes on the corporation or transfers to it the duty of collecting taxes on instruments of sale, gift and mortgage with possession. The total sum that is now being collected is 2 per cent. And until now, under the Act which is in force, the corporation is collecting both on its own behalf and on behalf of Government and is paying over to Government the surplus after deducting 1 per cent. Now, what would happen if this Act was passed without the amendment of Mr. Arumainatha Pillai is that the corporation will collect no more than 2 per cent and it will have to pay, in pursuance of the amended Stamp Act, $1\frac{1}{2}$ per cent to the Government with the result that the corporation will be left with only a half per cent. The Hon'ble the Revenue Member has asked why the Madras citizen should enjoy an advantage over the mufassal citizen. I am not claiming any advantage for him. But all that I say is that they have been already subjected to a

[Mr. O. Tanikachala Chettiyar]

[14th March 1922]

A new clause after clause 12—*cont.*

greater hardship or a greater liability than the mufassal people. Now that you are raising the stamp duty, only bear in mind that you have already been imposing 2 per cent on Madras when it was 1 per cent in the mufassal and do not make the burden on Madras property more than 2 per cent. I am not asking for any exemption or any reduction. I am only seeking under section 125 of the City Municipal Act to safeguard the corporation against a loss."

The Hon'ble the PRESIDENT :—"I am afraid the honourable member has delivered a long speech which has far exceeded the limits of a personal explanation."

Mr. C. P. RAMASWAMI AYYAR :—"Mr. President, Sir, no doubt under section 135 of the Madras City Municipal Act the duty on transfers of property is levied in the form of a surcharge and that surcharge is 2 per cent. There is considerable force in the contention advanced by the honourable member Mr. Tanikachala Chettiyar that if the Government deducts the increased duty the corporation's resources will only be decreased to half per cent. That is very good argument if the corporation's resources need replenishment for amending the City Municipal Act, but it seems to me that it has not very much bearing on the present question."

Diwan Bahadur M. KRISHNAN NAYAR :—"Sir, I have been listening very carefully to my friend Mr. Tanikachala Chettiyar and also to the Hon'ble the Revenue Member and I understand the position to be this. The corporation instead of being a loser will be a gainer because, as I understand it, the corporation gets 2 per cent on the stamp duty, irrespective of the persons who collect it, collected under these three classes of instruments in respect of properties situated within the limits of the city of Madras. In respect of the stamp duty the corporation, I suppose, gets 2 per cent on the total duty collected."

Mr. O. TANIKACHALA CHETTIYAR :—"I rise to make a correction, Sir. It is not 2 per cent on the total collection but 2 per cent of the value of the properties that is the duty charged by the corporation. Out of that the Government take their share and the balance is left to the corporation and not the whole 2 per cent. It is rather 2 per cent of the consideration money."

Mr. T. ARUMAINATHA PILLAI :—"So far as the reading of section 135 is concerned, my friend Mr. Tanikachala Chettiyar has put forth one view of the question and the Hon'ble the Advocate-General has been frank enough to confess that there might be some difficulties so far as the corporation is concerned which requires an amendment of the City Municipal Act. The Hon'ble the Revenue Member was not able to see how there was any difficulty so far as the citizens of Madras are concerned. People who were executing a document of sale for say Rs. 2,000 had to pay under the old Act Rs. 20 and Rs. 20 plus Rs. 20 after the City Municipal Act came into force. After this Act comes into force, according to my interpretation, they will have to pay Rs. 30 plus Rs. 20 or Rs. 50. So already the people are paying Rs. 40, not 1½ per cent which the Hon'ble the Revenue Member wants to increase now, but they were paying 2 per cent, i.e., half per cent over and above what the Hon'ble the Revenue Member wants to increase by this Act. They are to pay a still larger amount now. That is the difficulty and it is not a luxury that the Madras citizens do require, but they are already over-burdened and that is the burden which I now want to lessen."

14th March 1922]

A new clause after clause 12—*cont.*

Mr. C. V. VENKATARAMANA AYYANGAR :—"Sir, I want to say only one word. Whatever might have been the case, there has been some difference between the mufassal people and the people in the city and the difference is 1 per cent. On hearing Mr. Tanikachala Chettiya's argument, I do not know whether Mr. Arumainatha Pillai is correct. What seems to be the fact is this. If it is a question of Rs. 100, two rupees are collected by the Corporation out of which one is paid at present to the Government. If this Bill is passed, the Corporation has to collect Rs. 2 and to pay Rs. 1½ and the remaining half will only remain. Hence Mr. Tanikachala Chettiya argues that the Corporation is made to lose by this Act. What I would say is that the Corporation should not be made to lose. As the Hon'ble the Advocate-General suggested, by an amendment of the City Municipal Act the citizen of Madras should be made to lose. And that is to say, if up to this time he was paying Rs. 2 when the mufassal people were paying Re. 1, he must be made to pay Rs. 2-8-0 to cover the one and a half rupees to the Government and one rupee to the Corporation. There is no reason when a mufassal man is made to pay an increased stamp duty as to why the Madras man should not be called upon to pay more either for the security that he is enjoying, or for the comforts at Madras, whatever they may be. The Advocate-General has very well said that the only thing which the Corporation wants is to be saved from any loss and that could be done by an amendment of the City Municipal Act. There is no reason, so far as I can see, why the burden should be increased for the mufassal man and not for the town man. I therefore think that the amendment is out of place, its proper place being in the City Municipal Act and not in the present Bill."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I also wish to point out, Sir, that all that has been said on the amendment would justify an amendment of the City Municipal Act or of the arrangement which has been entered into under the Act between the Government and the Corporation. That would mean that, so far as the provisions of some of the articles are concerned, there should be a departure so far as the city of Madras alone is concerned. This will be introducing a wrong procedure for a long time to come. There have been some disabilities as pointed out by the honourable the mover in the case of some of the properties situated in Madras. But then the best course would be for my honourable friend to come forward with a Bill to amend the City Municipal Act rather than ask for any exceptional treatment to be meted out to Madras. For these reasons I oppose the amendment proposed."

Mr. N. A. V. SOMASUNDARAM PILLAI :—"Mr. President, I beg to support the amendment. The honourable member Mr. A. S. Krishna Rao said that the Madras City Municipal Act must be amended so that a greater burden may be thrown on the citizens of Madras, for this simple reason that hitherto they were paying 2 per cent; why not they be now asked to pay 2½ per cent. That is not the view to take at all. If we have hitherto been suffering under the weight of some burden, why should that burden be added to now simply because the duties have to be raised? Therefore it is much better to leave the Madras citizens with all the burdens they are already labouring under instead of adding to them. With these few words, Sir, I would strongly support the amendment that has been moved."

[14th March 1932]

A new clause after clause 12—*cont.*

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I have to say only one word, Sir, in reply to the remarks that have fallen from the last speaker. He seems to be labouring under the impression that we intended to levy an additional burden on the citizens of Madras over and above what falls to the lot of the mufassal citizen. All that we now intend to do is to place on the citizen of Madras the same proportion of burden as is now placed on the mufassal citizen. The only complaint made was that as a result of this the Madras Corporation was losing something out of its normal revenue. As has been very well pointed out, Sir, if that is really so, it is a question which should be carefully examined and the necessary adjustment whether in the law or in the existing arrangements between the Government and the Corporation should be effected, but not by introducing an invidious distinction in this measure between the Madras citizen and the mufassal citizen."

A poll was taken with the following result.

As the poll was being taken, when the names of the members who were for the amendment in the second block were being called out, there were some noise and gesticulation in that block, and the Hon'ble the President observed as follows:—

"Order, order. When polling is going on it is not permissible for any honourable member to ask any other honourable member by word of mouth or by gesture to vote or not to vote in a particular way."

Ayes.

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|---|---|
| 1. Mr. K. Adinarayana Reddi. | 8. Mr. C. Natesa Mudaliyar. |
| 2. Sir P. Tyagaraya Chettiya. | 9. Mr. P. T. Rajan. |
| 3. Mr. C. Ramalinga Reddi. | 10. Mr. W. P. A. Saundara Pandia Nadar. |
| 4. Mr. O. Tanikachala Chettiya. | 11. Mr. N. A. V. Somasundaram Pillai. |
| 5. Mr. B. Muniswami Nayudu. | 12. Mr. S. Somasundaram Pillai. |
| 6. Mr. A. T. Muttukumaraswami Chettiya. | 13. Mr. P. Subbarayan. |
| 7. Mr. M. Narayanaswami Reddi. | 14. Mr. T. Arumainatha Pillai. |

Noes.

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| 1. The Hon'ble Sir Lionel Davidson. | 19. Mr. V. Pakkiriswami Pillai. |
| 2. " Sir Charles Todhunter. | 20. Diwan Bahadur R. Venkataratnam Nayudu. |
| 3. " Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 21. Diwan Bahadur M. Ramachandra Rao Pantulu. |
| 4. " Mr. K. Srinivasa Ayyangar. | 22. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 5. " Mr. P. Ramarayaningar. | 23. Mr. C. V. Venkatarauana Ayyangar. |
| 6. " Rao Bahadur K. Venkata Reddi Nayudu. | 24. Rai Bahadur T. M. Narasimhaচারু. |
| 7. " Rao Bahadur A. P. Patro. | 25. Rao Bahadur C. V. S. Narasimha Raju. |
| 8. Mr. C. P. Ramaswami Ayyar. | 26. Mr. A. Ranganatha Mudaliyar. |
| 9. Mr. T. E. Moir. | 27. Mr. M. Suryanarayana Pantulu. |
| 10. Mr. N. E. Marjoribanks. | 28. Rai Sahib F. M. Mascarenhas. |
| 11. Mr. F. J. Richards. | 29. Mr. Abbas Ali Khan Bahadur. |
| 12. Mr. C. W. E. Cotton. | 30. Mr. Ahmad Miran Sahib Bahadur. |
| 13. Mr. R. Littlehailes. | 31. Mr. Abdul Qasim Beari Sahib Bahadur. |
| 14. Mr. E. Periyannayagam. | 32. Khan Sahib Mubammad Abdur-Rahman Sahib Bahadur. |
| 15. Mr. R. K. Shanmukham Chettiya. | 33. Saiyid Diwan Abdul-Bazaq Sahib Bahadur. |
| 16. Mr. A. Ramaswami Mudaliyar. | 34. Mr. L. C. Guruswami. |
| 17. Mr. B. P. Devarajulu Nayudu. | 35. Rao Sahib P. Venkatarangayya. |
| 18. Rao Bahadur K. Gopalakrishnayya. | |

The motion was lost, 14 having voted for and 35 against.

14th March 1922]

CLAUSE 13.

Amendment 15.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—"Sir, the amendment is—

15. *For the words 'to the said Act,' substitute 'of the Principal Act.'*"

The Hon'ble Mr. K. SRINIVASA AYYANGAR :—"I second it."

The motion was put and carried and the substitution was made.

Amendment 15-A.

The following amendment which stood in the name of Mr. T. Sivasankaram Pillai was not moved :—

15-A. *In the second column against item (a) omit the word 'Bottomry' and substitute '13' for '14'.*

SCHEDULE I-A, ARTICLE 11.

Amendment 16.

Mr. N. A. V. SOMASUNDARAM PILLAI :—"Mr. President, the amendment that I beg to move is—

16. *In the second column against item (b) omit the word 'fifty' and insert instead 'twenty-five.'*

"This relates to the stamp duty payable on award, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the court in the course of a suit. The duty hitherto payable was, where the amount or value of the property to which the award related, as set forth in such award, does not exceed Rs. 1,000, the same duty as a bond (No. 15) for such amount, that is, at the rate of As. 8 for Rs. 100. In any other case it was Rs. 5. That was the maximum amount fixed hitherto as stamp duty payable on such awards. In the present Bill, the duty that is now sought to be raised is, where the amount or the value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000, the same duty as a Bottomry Bond (No. 14). That would be at the rate of As. 12 for Rs. 100. In the place of As. 8 which was the amount leviable before, it is now As. 12 for Rs. 100.

"Then with regard to (b), if it exceeds Rs. 1,000, but does not exceed Rs. 5,000, it is Rs. 10, whereas the original maximum amount was only Rs. 5. Now even above Rs. 5,000 the duty is Rs. 10 plus As. 8 for every Rs. 1,000, subject to a maximum of Rs. 50 for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000. Even with regard to clause (b) which imposes Rs. 10 for an amount of award exceeding Rs. 1,000 but below Rs. 5,000, I do not object. But for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000, As. 8, subject to a maximum of Rs. 50, is levied. With regard to that maximum alone I say that it is excessively high. It ought to be reduced to Rs. 25. There is really no proportion whatever observed in the enhancement of the duty with regard to certain instruments. In the place of Rs. 5, we have got to Rs. 10 now. So far as these private awards are concerned, parties have some common sense, and if possible they do not want to go to civil courts for the settlement of their disputes. They resort to private arbitration, and the arbitrators express their decision in writing, and that is called an award; and it has to be written on a stamp paper to avoid its being made liable to a penalty when filed in a court. Of course the Hon'ble the Revenue Member has thought it prudent that there should be a maximum with regard to the duty payable on such

[Mr. N. A. V. Somasundaram Pillai] [14th March 1932]

Schedule I-A, Article 11—*cont.*

awards, but I beg to submit that to fix Rs. 50 maximum in the place of Rs. 5 is unduly high. It will work very great hardship upon poor persons who want to have such disputes settled privately outside the court, and this will certainly not give them any inducement to have recourse to private arbitration. Therefore in the interest of the common people, it is much better to have it reduced to Rs. 25.

"I would also beg to point out to the House one difficulty that is now felt with regard to these awards. The persons who resort to such arbitration are most of them villagers altogether ignorant of the provisions of the Stamp Act and they generally have the award written on plain paper, and when the matter comes up to a civil court, they have to pay a penalty. An examination of the list of penalties collected, so far as these awards are concerned, shows that hitherto Government have been collecting eleven times Rs. 5, i.e., Rs. 55, penalty. As a matter of fact that these awards are written on plain paper is merely due to their ignorance, and for that they are obliged to pay ten times stamp duty as penalty. Now it is raised by Rs. 50, and if through some mistake or other an award happens to be written on a plain paper, the penalty payable now will come to Rs. 550. That is also one of the circumstances to be taken into account in fixing the amount of duty leviable with regard to such instruments.

"Therefore, I would leave this amendment to the kind acceptance of the House taking into consideration the circumstances in which the villagers are placed at present, their want of education, ignorance of the people with regard to these matters, and seeing also that the duty that is now sought to be raised is raised by a very large amount. In fact, it will be raised from Rs. 5 to Rs. 25 if my amendment is accepted. With these words, I leave the amendment to the kind acceptance of the House."

Rao Bahadur C. V. S. Narasimha Raju seconded the motion.

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB

5 p.m. Bahadur:—"Sir, I should like to follow the line of argument of the honourable the mover of this motion, particularly in view of his pathetic peroration on behalf of the poor ryot, the ignorant ryot and the unfortunate ryot who would find it hard according to him to shell out such a large sum as Rs. 50 in the shape of stamp duty under this vicious Bill. But, Sir, may I draw the attention of the honourable member that such sympathy would have been better deserved had he only extended it on behalf of those who came under sub-clauses (a) and (b)? He has, however, chosen to confine his sympathy to individuals who come under sub-clause (c). Let us examine who will be the poor individuals that will be affected by this fee of Rs. 50. Now, Sir, it is obvious that it is only in respect of property whose value is not less than Rs. 85,000, that a fee of Rs. 50 will be collected. May I ask now in the name of common sense whether a man who possesses Rs. 85,000 should be regarded as a poor individual deserving sympathy and compassion of this House and whom this morning the Hon'ble Sir Charles Todhunter wittily christened as the 'poor rich'? Further, Sir, I may say that this question engaged the attention of the select committee very carefully and from the nature of the types in which some of these figures have been printed, it will be noticed that the alterations represented by them have been made by the select committee itself. Sir, you will find that the item of ten rupees which has been entered thereunder as also the item of Rs. 50 were entered by the select committee. While

14th March 1922] [Mr. Muhammad Habib-ul-lah Sahib]

Schedule I-A, Article 11—*cont.*

doing so, it carefully considered one aspect of the question and that was this. In respect of property costing Rs. 85,000 and for which an award has been entered into, the sum that that 'poor rich' man is called upon to pay is no more than Rs. 50. For the purpose of deciding a claim in respect of Rs. 85,000 according to the Court Fees Bill which we passed this morning, he will have to pay a court fee of no less than Rs. 2,000 to begin with, let alone the incidental and other expenses as also a large and respectable fee for the member of the legal profession who may appear. Now, Sir, he saves all this expenditure by a mere trifle of Rs. 50 and he is able to settle a dispute with regard to property worth Rs. 85,000 and brings about a document in his favour just as good as a decree of a court."

Mr. C. V. VENKATARAMANA AYYANGAR:—"More valid."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"More valid, I am told, because in the case of an award there can be no appeal whatsoever. Therefore, I would ask the honourable the mover whether he is really pressing this motion on behalf of the 'poor rich' in respect of a property worth Rs. 85,000."

Mr. N. A. V. SOMASUNDARAM PILLAI:—"Mr. President, I have not been able to follow the reasoning of the Hon'ble the Revenue Member. Perhaps the Hon'ble the Revenue Member thinks that if a man has got properties worth Rs. 5,000 he should be considered rich."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"I never said so, Sir. I specifically pointed out that an individual who has to pay Rs. 50 must be an individual possessing property not less than Rs. 85,000."

Mr. N. A. V. SOMASUNDARAM PILLAI:—"I thought that from Rs. 5,000 to Rs. 10,000 there ought to be some increase. But so far as Rs. 50 is concerned, I want the House to take a reasonable view of the matter. There is no idea of any proportion at all. I thought it reasonable to have Rs. 25. So far as persons who resort to private arbitrations are concerned, they are not persons who possess properties more than Rs. 5,000. It is only the middle class of people that have some common sense and they are the persons who go to private arbitration. It is such persons who must be considered as poor persons. Therefore, I propose a reduction of the amount from Rs. 50 to Rs. 25. I leave to the honourable members of the House to consider whether it is desirable, necessary and reasonable that the duty payable by such persons should be Rs. 50."

The motion was put and lost.

Amendment 16-A.

The following motion of Mr. T. Sivasankaram Pillai was deemed to have been withdrawn as the member was not present:—

16-A. *In column 1, substitute '25' in place of '10.'*

SCHEDULE I-A, ARTICLE 19.

Amendment 17.

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I move the following amendment to the stamp duty payable under article 19 regarding conveyance:—

17. *Under the head 'Proper stamp duty' substitute—*
 - (i) 'Ten annas' for 'Twelve annas.'

[Mr. A. S. Krishna Rao Pantulu] [14th March 1932]

Schedule I-A, Article 19—*cont.*

- (ii) 'One rupee four annas' for 'One rupee eight annas.'
- (iii) 'Two rupees eight annas' for 'Three rupees.'
- (iv) 'Three rupees twelve annas' for 'Four rupees eight annas.'
- (v) 'Five rupees' for 'Six rupees.'
- (vi) 'Six rupees four annas' for 'Seven rupees eight annas.'
- (vii) 'Seven rupees eight annas' for 'Nine rupees.'
- (viii) 'Eight rupees twelve annas' for 'Ten rupees eight annas.'
- (ix) 'Ten rupees' for 'Twelve rupees.'
- (x) 'Eleven rupees four annas' for 'Thirteen rupees eight annas.'
- (xi) 'Twelve rupees eight annas' for 'Fifteen rupees.'
- (xii) 'Six rupees four annas' for 'Seven rupees eight annas.'

"I have suggested an alteration of the scale prescribed for a conveyance, the effect of which is that instead of increasing the present duty by 50 per cent I propose an increase of 25 per cent. I have calculated what the increase would be if it is increased by 25 per cent. I am aware that this matter was considered by the Select Committee. Though the point was then raised whether it is not desirable to limit the increase to 25 per cent, the majority of the Select Committee thought that it should be fixed at 50 per cent. I specially wish to draw the attention of the House to the case of a conveyance which is brought about more often on account of the strained circumstances of an individual rather than his living in affluent circumstances. The Hon'ble the Revenue Member was pleased to give expression to feelings of sympathy towards the poor man. The increased duty affects not only the case of conveyances but also directly affects the case of some leases under article 30, because in the case of leases for five years and upwards the duty provided for is said to be the same as for conveyance. Therefore, if my proposal is accepted, it is clear that in the case of conveyances affecting the ordinary individuals there would be some relief. Also in the case of leases for five years I would ask the House to be satisfied with an increase of 25 per cent over the present rates than an increase of 50 per cent as suggested in the present Bill. Sir, I would specially suggest that the enhancement proposed should be moderate, especially when it affects the poorer classes of men. If that principle is kept in view, I do not think the House will decide otherwise. I hope the Hon'ble member for Revenue, notwithstanding his anxiety for getting more revenue, will pay sufficient consideration to the fact that in a large number of cases the poorer people are affected."

Rai Bahadur T. M. NARASIMHACHARLU :—"I beg to second this motion. This has been my opinion and I have given expression to it in the dissenting minute that I submitted along with the Select Committee's report. I am very glad that my opinion is at least shared by the honourable member Mr. Krishna Rao and I hope others also will be kind enough to take up our suggestion. You will find, Sir, that in the several articles that follow for instance under articles 23, 27, 28, 30 and so on which chiefly concern the people in the mufassal, the people in the villages who resort to these transactions resort to them more often out of necessity than as a commercial transaction involving profit to them. These people will be very hard hit. That is in the case of these leases, sales and gifts they will be very hard hit. That is the reason, Sir, why I thought that while making good our deficit we should be moderate in our demand lest the people might take us as somewhat

14th March 1922] [Mr. T. M. Narasimhacharlu]

Schedule I-A, Article 19—*cont.*

rapacious. It is with that object that I thought that this 25 per cent would meet the present demand and suggested accordingly. I therefore heartily second this motion."

The Hon'ble Khan Bahadur MUHAMMAD HABIB-UL-LAH SAHIB Bahadur:—"Sir, I am sorry I have to disappoint the honourable mover in his expectations that I would accede to his suggestion and I think I need not also repeat the reasons that I have already urged to the seconder of this resolution who from his place as a member of the Select Committee had argued the same points with me. We, Sir, had to follow a certain procedure for the purpose of revising Schedule I attached to the present Stamp Act. We had to assume that the present Schedule was passed on something like, shall I say, a scientific and reasonable basis as representing the proportion between item and item contained therein. We did not therefore in the least attempt to make any variations from item to item; but the only question we thought we should consider was as to whether the best way of realizing more revenue was not merely to apply a particular standard of proportion. Accordingly we applied 50 per cent in some cases, 66 per cent in some others and in a few cases we applied even cent per cent. So as far as a reasonable minimum went we thought 50 per cent justifiable. I say justifiable because the Stamp Act was passed in the year 1899 and Schedule I was therefore created in 1899. A long number of years have since passed. It is within the knowledge of every member of this House that the value of property since 1899 has gone up considerably. Even accepting the contention of the honourable the mover that in very many cases the sales or conveyances of properties—the item with which we are now particularly dealing with—are necessitated on account of the actual financial needs of the individual concerned, the stamp duty is not much considering the fact that the value of property has risen two-fold and three-fold. This individual has now to pay a few annas more than what he paid in 1899.

"Judged, therefore, Sir, from that standard, I think that the small increases that have been made cannot be regarded as either deterring or discouraging or throwing impediments in the way of individuals who wish to execute documents. Before we applied this principle of the 50 per cent or 66 per cent or 100 per cent, we took our cue from some other provinces and we found that in other provinces the minimum that has been fixed was 50 per cent. Although we did not follow them in respect of all the items or in respect of every kind of increase, as far as possible we were satisfied that in this particular case no other province in India has kept the stamp duty at a lower scale than the one we have suggested here. If, as the honourable the mover himself has suggested, the reduction is made by 25 per cent, I am afraid that the revenue that will be affected thereby will be considerable. For the honourable member who moved it himself confessed that the number of transactions of smaller value are by far greater than the transactions of higher value. If that is so, if 50 per cent increase is reduced to 25, then the inevitable consequence will be to take a large slice out of the expected revenue on which, I suppose, we have built considerable hopes and on which we have told the House that we will be able to reduce our deficit by nearly 35 lakhs of rupees. I have also told the House that I have been expecting that they would support us as far as possible to enable us to secure as much revenue as we can so that I may not be neglectful of the claims of my village officials. I understood the

5-15 p.m.

[Mr. Muhammad Habib-ul-lah Sahib] [14th March 1922]

Schedule I-A, Article 19—*cont.*

House to give me a sort of hope then that they would try and help me as far as possible in realizing this revenue to enable me to carry out not only my own wishes but also the wishes of the House as a whole. But if this amendment is passed, I am afraid that it will reduce the expected revenue from this source somewhat considerably. The total number of deeds executed in the Registration department show that the proportion between those of a larger denomination and those of a smaller denomination is so large that if these rates are reduced by 25 per cent, possibly the revenue may go down by a few lakhs of rupees, and I don't think that it is the intention of the House, at this particular financial crisis, to reduce the revenue. I can quite realize that some people may probably find it pleasanter to pay less and more difficult to pay more. But all the same, considering the maximum which a man has got to pay for small transactions, namely, beginning from 12 annas and running up to Rs. 15 on the whole, I cannot imagine that it will work a serious hardship so as to justify a reduction in the schedule which has been carefully examined by the Select Committee and also by the Government; and I would beg of the House to pass the schedule as it is."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"I am afraid, Sir, that there is a fallacy in the argument of the Hon'ble the Revenue Member when he referred us to the fact that the Act was passed in 1899, that the value of the property has arisen and that there is a justification for the increase in these rates. He has evidently forgotten that with the increase in the value of the property, the people are now called upon to pay higher stamp duty. If that principle is kept in view, the fact that there has been increase in the value of property is a matter of no consideration whatever in applying the test. If, in addition to the fact that there is increase in the value of the property, you are going to increase the rates, not by 25 per cent but by 50 per cent, the matter for consideration is whether it is not likely to affect the persons in a prejudicial manner. We are agreed as to the main principles. He has not controverted the view that this will affect the poorer classes, that the sales are in most cases for small sums of money and that persons are forced to sell properties on account of their financial embarrassment. It is certain that persons who are conservative and are anxious to retain their property will not sell them unless forced by circumstances to do so. While we are anxious to get as much revenue to the State as possible to meet the present deficit, this House should also remember that it is our duty to be reasonable in the matter of taxation to the highest possible extent, and that we should not be considered to be rapacious, as one of my friends has put it, in levying taxes. If we can get more revenue by reasonable means, then it is our duty to do so. Let us be moderate in our demand. Notwithstanding the temporary fall in our revenue, I request the Council not to increase the rate for the conveyance by more than 25 per cent. With these words I request the House to accept this amendment."

The amendment was put and lost.

The Council adjourned at 5-30 p.m. to meet again at 11 a.m. on Wednesday the 15th March 1922.

L. D. SWAMIKANNU,
Secretary to the Legislative Council.